



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2013-0343; FRL-9824-9]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Illinois**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a request submitted by the Illinois Environmental Protection Agency (Illinois EPA) on April 11, 2013, to revise the Illinois state implementation plan (SIP). The submission revises Title 35 of the Illinois Administrative Code (IAC) Part 254, Annual Emissions Report. The revision provides clarification regarding greenhouse gases (GHGs) as it relates to the annual emissions report. The rationale for approval and other information are provided in this rulemaking action.

**DATES:** This direct final rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2013-0343, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. Email: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov)
3. Fax: (312) 692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No.

EPA-R05-OAR-2013-0343. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in

hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, (312) 886-6031 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)886-6031, [hatten.charles@epa.gov](mailto:hatten.charles@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background for this action?
- II. What revision did the state request?
- III. What action is EPA taking today?
- IV. Statutory and Executive Order Reviews.

**I. What is the background for this action?**

On April 11, 2013, the Illinois EPA submitted a request to EPA to revise the SIP to provide clarification regarding GHGs as it relates to the provisions at 35 IAC Part 254, Annual Emissions Report.

On December 28, 2012, the Illinois EPA published a "Notice of Public Information" in the Illinois Register providing a 30-day public comment period on the proposed revision to its SIP for GHGs relating to the annual emissions report program. The notice also provided for a public hearing if a request for a hearing was received by January 28, 2013. The Illinois EPA received no requests for a public hearing, and placed a "no public hearing request" notice on the Illinois EPA website at <http://www.epa.state.il.us/public-notices> on February 6, 2013.

## **II. What revision did the state request?**

The state has requested that EPA approve revisions to 35 IAC Part 254, which requires facilities to submit an annual emissions report to Illinois EPA. This revision is a non-substantive technical change that clarifies that the type of annual emissions report that a source needs to submit to Illinois EPA will not be based upon GHG emissions.

Prior to this revision, section 254.102(a)(1) of Subpart A, General Provisions, 35 IAC Part 254, provided that Subpart B, Reporting Requirements for Large Sources, applied to owners or operators of any source required to have an operating permit in accordance with 35 IAC 201 that is permitted to emit 25 tons per year or more of any combination of regulated air pollutants. In 2011, the Illinois General Assembly revised the definition of "regulated air pollutant" in section 39.5 of the Illinois

Environmental Protection Act [415 Illinois Compiled Statutes 5/39.5] to include GHGs. As a result, Illinois EPA revised section 254.102(a)(1) of Subpart A, General Provisions, 35 IAC Part 254, to clarify that the type of annual emissions report, i.e., a long form or a short form, that a source is required to submit will not be based on its GHG emissions. The revised applicability provisions at 35 IAC 254.102(a)(1) provide that Subpart B, Reporting Requirements for Large Sources, applies to owners or operators of any source required to have an operating permit in accordance with 35 IAC 201 that is permitted to emit 25 tons per year or more of any combination of regulated air pollutants, excluding greenhouse gases. Illinois EPA anticipates that the revised rule will avoid additional costs for small businesses, small municipalities and not-for-profit corporations who would otherwise be required to complete a long-form annual emissions report absent the revised rule.

EPA finds that the revision to the applicability provisions of 35 IAC Part 254 as they relate to GHGs is acceptable.

### **III. What action is EPA taking today?**

EPA is approving the revision to the Illinois SIP at 35 IAC Part 254, regarding GHGs as it relates to the annual emissions report.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no

adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse written comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

#### **IV. Statutory and Executive Order Reviews.**

Under the Clean Air Act, the Administrator is required to

approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial

review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Emissions Reporting, Incorporation by reference, Ozone, Volatile organic compounds.

Dated: June 6, 2013

Susan Hedman,  
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Section 52.720 is amended by adding paragraph (c)(196) to read as follows:

**§ 52.720 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(196) On April 11, 2013, Illinois submitted a revision to 35 IAC Part 254, Annual Emissions Report. The revision amends the applicability provisions as they relate to greenhouse gases.

**(i) Incorporation by reference.**

Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution; Chapter II: Environmental Protection Agency; Part 254: Annual Emission Report, Section 254.102: Applicability, effective April 20, 2012.